IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 512 OF 2002

Ramlal Bhagwandas Baldota,
Aged: 68 years,
Occ.: Agriculturist,
R/o. Ghoti, Taluka Karmala,
Dist. Sholapur. ... Appellant.

Versus.

Chaganlal Dalichand Baldota,
Aged: 62 years, Occ.: Business,
R/o. Kem, Taluka Karmala,
Dist. Solapur. ... Respondent.

Shri P.K.Dhakephalkar for the Appellant.

Shri G.S.Godbole with Shri Nitin Mulye for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 6th April, 2005.

P.C.:

1. Heard Shri Dhakephalkar for the Appellant and Shri Godbole for the Respondent.

2. After considering the submissions made by the learned Counsel appearing for the parties, I was inclined to admit the Second Appeal for final hearing as substantial questions of law are involved in the Second Appeal. One of the submissions made by the learned Advocate for the Appellant was that there is no proper consideration of the documentary evidence on record and there are no proper findings recorded by the Appellate Court after dealing with the oral and documentary evidence on record.

3. At this stage Shri Godbole appearing for the Respondent stated that considering the nature of dispute involved between the parties, instead of keeping the Second Appeal pending for final disposal, by setting aside the Judgment and Decree of the Appellate Court, order of remand may be passed so that the Appellate Court after considering the oral and documentary evidence on record can deliver a detailed Judgment recording the findings on various factual aspects involved in the Appeal. He has tendered on record a letter of consent of the Respondent addressed to him which is marked as "X" for identification. Considering the fact that the Judgment of the first Appellate Court is cryptic, the submission of Shri Godbole deserves to be accepted.

4. In view of this position, the following order is passed:

(i) The impugned Judgment and Decree dated 30th January 2002 is quashed and set aside and the Civil Appeal No.157 of 2000 is remanded to the District Court at Sholapur.

(ii) The parties will appear before the learned District Judge, Sholapur, on 13th June

2005 at 11.00 a.m. The learned District Judge will hear the Appeal himself or may assign the appeal to any other Additional District Judge.

(iii) The Appeal will be decided finally as expeditiously as possible and preferably on or before 31st October 2005.

(iv) All contentions of the parties on merits are expressly kept open.

(v) The Second Appeal is partly allowed in the above terms with no order as to costs.

(vi) The parties and the concerned Court to act on an authenticated copy of this order.

Judge.